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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 30 April 1966, at 10 a.m.

Chairperson: Mr. ALVAREZ VITA

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4)

Initial report of Paraguay (E/1990/5/Add.23; HRI/CORE/1/Add.24)

1. At the invitation of the Chairperson, Mr. Loizaga and Mr. Ugarriza (Paraguay) took places at the Committee table.

2. Mr. LOIZAGA (Paraguay) said that it was a great honour for him to submit for the Committee's consideration the initial report of Paraguay and to reply orally to the list of issues (E/C.12/1995/LQ.1/Rev.1), in accordance with the commitments entered into by his Government since the advent of democracy in Paraguay. In that connection, the Government had complied with its undertaking to ratify in their entirety the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

3. Because of the recent anti-democratic political events in his country, Paraguay had been unable to send a specialist delegation to Geneva to answer the Committee's questions. He would, however, do his utmost to reply to those questions and, in so doing, hoped to show that Paraguay was making every effort to comply with its commitments under the International Covenant on Economic, Social and Cultural Rights. It was in fact encountering some difficulties in monitoring implementation of the rights set forth in the Covenant, weighed down as it was by a past deeply marked by authoritarianism and dictatorship. Paraguay was passing through a period of apprenticeship for democracy and for the implementation of human rights in general. None the less, in the past four years, it had given priority to education, which was the first item of expenditure in the State budget. Free primary and compulsory education and the establishment of technical schools were further measures designed to promote the integration of all Paraguayans into the national community. In order to comply with its commitments to the International Labour Organization, Paraguay had drafted a new Labour Code in 1993, in close collaboration with the trade unions. Paraguay, therefore, was a State governed by the rule of law which believed in a rational approach and dialogue.

4. As for peasant demonstrations, which a non-governmental organization (NGO) had referred to at an informal meeting the previous day, legal proceedings had been instituted and the law, which was totally impartial, was taking its course. Unfortunately, the information supplied by the NGO in question was inaccurate and did not take account of the actual situation in Paraguay.

5. The CHAIRPERSON invited the representative of Paraguay to reply to the questions in the list of issues (E/C.12/1995/LQ.1/Rev.1).

6. Mr. LOIZAGA (Paraguay), starting with the general framework for the implementation of the Covenant, said that its provisions had been fully

incorporated into his country's positive law and therefore had legal force. They were implemented in so far as the difficult political situation in Paraguay allowed. What held sway in Paraguay at the present time was the political aspect, which meant that the implementation of certain legislative decisions or various initiatives taken by the executive in the sphere of economic, social and cultural rights had had to be postponed. A plan to reform national education currently under consideration would, however, make it possible to increase compulsory and free primary schooling and to reduce illiteracy.

7. With regard to questions 2 and 3 on the list of issues, the international instruments to which Paraguay was a party were not automatically incorporated into national law. The incorporation procedure was laid down in the Constitution, which stipulated that international instruments should be ratified by Parliament and then approved by the executive, following which they were deemed to form part of national positive law and were therefore binding.

8. As to which economic, social and cultural rights could in fact be invoked before the courts and what jurisprudence there was in that respect, there had been one case in which the court, in an action brought by the plaintiffs, had ordered the enrolment of a number of young people who had been denied the possibility of enrolment and of continuing their studies in an educational establishment.

9. With regard to question 4, the punitive laws which had been in force under the previous regime, namely, Acts Nos. 294/55 and 209/70, had been repealed by the Government on 4 September 1989.

10. On question 5, a Directorate General for Human Rights had been set up in the Ministry of Justice and Labour to monitor the implementation, by the Government and official bodies, of all matters pertaining to the commitments entered into by Paraguay in the human rights field. The main function of the Directorate-General was pedagogical. It endeavoured to make human rights in general and the provisions of the Covenant in particular well known in Paraguay. It had still not realized its potential but the Government was taking the necessary steps to increase its budget and staff so as to provide it with the means of ensuring that Paraguay complied with its obligations under the Covenant.

11. Question 6 called for a very technical answer, which his delegation would do its best to give as soon as it had the necessary detailed information.

12. The CHAIRPERSON, thanked the Paraguayan representative and invited members of the Committee wishing to seek clarification to take the floor.

13. Mr. TEXIER thanked Paraguay for its initial report, which gave a very interesting account of its historical development; the Committee would certainly take it into account. Paraguay had undergone a remarkable transition, moving peacefully from dictatorship to a democracy that was as yet fragile - as was apparent from the recent attempted coup d'état - and needed to be consolidated. He was pleased to note that, under the 1992

constitutional reform, a large part of both Covenants, and in particular the International Covenant on Economic, Social and Cultural Rights, had been incorporated into the legal system.

14. The question whether economic, social and cultural rights could in fact be invoked at law would, in his view, be of considerable interest to the Committee, which could take it into account when drafting the Optional Protocol, an instrument linked to the "justiciability" of rights. It would also be interesting to know whether legal proceedings had been brought in other areas covered by the Covenant. For example, could infringements of trade union rights and the right to housing be the subject of legal proceedings?

15. The Paraguayan representative had made no mention of the role of NGOs. While the drafting of a report was the Government's responsibility, it should provide an opportunity for public debate at the national level. He would therefore ask the Paraguayan delegation to inform the Committee whether the initial report (E/1990/5/Add.23) had been distributed in Paraguay and whether NGOs and trade unions had had an opportunity to give their opinion on its content.

16. Mrs. BONOAN-DANDAN said she was surprised that written replies to the list of issues had not been communicated to the Committee. For instance, the Paraguayan representative had stated that certain information submitted by one NGO to the Committee at an informal meeting the previous day was false. She regretted that the Paraguayan representative had not provided concrete data, and particularly statistics or reliable information, on the basis of which the Committee could form an opinion in the light of all the facts. It would be helpful if the Paraguayan delegation could provide the Committee with detailed information on the substance of the question.

17. She endorsed Mr. Texier's request that the Paraguayan representative should provide the Committee with information concerning the preparation of the initial report of Paraguay. Had it given rise to a public debate? Had independent organizations and prominent independent persons participated in it? Had the public been informed of Paraguay's obligation to submit a periodic report to the Committee and, in particular, of the existence of the Covenant and Paraguay's obligations under it?

18. Mr. CEAUSU said it was his understanding that there was no official national body in Paraguay with responsibility for compiling and publishing statistical data; that task fell to public or private bodies and for that reason, the data, which emanated from different sources were sometimes contradictory. Furthermore, since no dictatorship could exist without the support of the armed forces, he would like to know how the country's democratic institutions functioned at the present time and what the role and position of the army and military institutions were in the structure of the State, and in the administration. He would also like to know for what percentage of the population Guarani was the mother tongue. Lastly, with regard to the distribution of international human rights instruments, he would like to know more specifically whether the Covenants were printed and distributed in the form of a brochure or whether they appeared in compendiums. Also, were they published in Guarani?

19. Mr. AHMED said that during the transitional phase from dictatorship to an open democratic society the Paraguayan Government, headed by Mr. Wasmosy, would have to overcome the difficulties of which the Paraguayan representative had spoken frankly. The Committee's task was to help it to resolve those difficulties. Furthermore from the initial report of Paraguay (E/1990/5/Add.23) and information provided by various NGOs, it was clear that the poverty afflicting Paraguay and the land tenure regime currently in force were among the main obstacles being encountered by the new democratic Government. He would like to know more about the difficulties the Government had had in Parliament in getting its economic reform programme approved and implemented, in changing the land tenure regime and in giving land to the indigenous people and peasants struggling against the system of large estates. What chance was there, in those circumstances, of engaging in economic reform and introducing a little more social justice?

20. Mr. ADEKUOYE, referring to paragraph 187 of core document HRI/CORE/1/Add.24, asked what the Directorate-General for Human Rights had done in the past three years to ensure the distribution of international human rights instruments, bearing in mind that certain population groups did not know their rights. What had been the results of such activities and who was responsible for the fact that the indigenous population were unaware of their rights of ownership?

21. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) said that she would like to have more detailed information about the Directorate-General for Human Rights. What was its precise function and what links did it have with civil society and NGOs?

22. Mr. THAPALIA asked for information about the provisions governing child labour and the implementation of the right of children to education.

23. Mr. LOIZAGA (Paraguay) explained that the initial report submitted by Paraguay (E/1990/5/Add.23) had been prepared by the Directorate for Statistics and Census Returns, which carried out all studies and censuses in the various areas covered by the Covenant, such as access to culture and work. The Technical Secretariat for Planning, which was directly responsible to the Office of the President of the Republic, and the Directorate-General for Human Rights within the Ministry of Justice and Labour had also contributed to it. He did not, however, know whether the trade unions had played a direct part in its preparation although, since 1989, the trade unions and NGOs had played an active part in acquainting the population as a whole with economic, social and cultural rights. Frequent debates, open to all, were held on the subject and seminars were organized throughout the country.

24. Human rights were taught at the General University of Asuncíon, and in particular in the Faculty of Law, as part of humanitarian law. As from 1996, that subject was to be included in the primary school syllabus in order to familiarize young people with the content of the Covenants and international conventions and with the protection of human rights.

25. As to the armed forces, serving military personnel were expressly prohibited, under chapter XV of the current Constitution, from belonging to a political party or engaging in political activities.

26. There was no racial discrimination in Paraguay; only one category of citizens existed and it included the 70,000 to 100,000 indigenous people who were spread among the country's 17 ethnic groups out of a population of 4.8 million. The National Indigenous Institute was responsible for indigenous affairs and the Government had taken steps to provide the indigenous people with sufficient physical space to carry out their activities and live in humane conditions.

27. The Constitution proclaimed that Paraguay was a pluri-cultural country whose official languages were Spanish and Guarani - the latter being treated as anything but a minority language. Moreover, there was a special office with responsibility for solving the problems created by bilingualism. As for the distribution of the texts of human rights instruments, the notable work done by the NGOs since 1989 deserved special mention. The texts in question were published in Spanish and Guarani.

28. Paraguay was endeavouring to give effect to the principles laid down in the Constitution, though theory was far removed from practice. The Constitution should be an instrument of economic and social development, social justice and the fair division of wealth.

29. As to the agrarian question, the large unproductive estates (latifundia) were gradually being reincorporated into the national economy and allocated to landless peasants. Over 130,000 hectares of such estates had been expropriated since 1989 by decision of Parliament and under the terms of the Constitution. The agrarian question, which was under study, formed an important part of the national debate. The expropriation procedures were not always well received, of course. Some expropriations were challenged before the courts on the ground that they were unconstitutional or did not fulfil the social function they were supposed to perform. The executive, in accordance with the principle of the separation of powers, did not intervene in judicial matters. In order to promote dialogue between the different social and economic actors, the Government had set up the National Council for Social Development, in which, among others, the trade unions, the political parties, farmers' organizations, and representatives of private-sector industries and stock breeders took part.

30. Privatization too was a highly sensitive topic in the national debate. The trade union organizations apparently failed to see the positive influence privatization could have on the workers' situation and did not realize that if the State disengaged from certain economic sectors it could play a more effective role in the areas that belonged to it alone.

31. As to child labour, it could not be denied that there were children who worked in Paraguay at the present time. Often, however, they worked in a rural environment and in a family context, for example, in the countryside helping their parents to harvest cotton. He had no detailed information on child labour but, should the Committee so wish, his Government could forward fuller information on the matter.

32. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) said that she would like to know more about the National Council for Social Development, which seemed to be a very interesting body.

33. Mr. RATTRAY said that in many countries privatization was perceived as a threat to the enjoyment of economic, social and cultural rights and that it was in fact important for those rights to be accompanied by a number of guarantees. Since the rights laid down in the International Covenant on Economic, Social and Cultural Rights were guaranteed under the Paraguayan Constitution and could be invoked before the courts, he would like to know whether privatized undertakings, particularly those providing essential services which directly affected the enjoyment of such rights, were bound to respect the rights set forth in the Covenant and guaranteed by the Constitution. Would they be answerable in the event of failure to observe those rights?

34. Mrs. BONOAN-DANDAN, referring to the Paraguayan representative's statement that the indigenous communities were not subject to any discrimination, pointed out that a report of one NGO - International Women's Rights Action Watch, of 17 April 1996 - stated that the laws of Paraguay which dealt with indigenous peoples, though excellent, were not applied in practice. Apparently the indigenous communities, namely, the Indians, were not even aware of the existence of such laws. The situation of Indian women was said to be particularly critical because they belonged to a minority and were women. The position of such women did not seem to be really taken into account either by the National Secretariat for Women or by the Ministry of Education. Apparently there was no education plan for the indigenous peoples. It was a matter of record that lack of schooling for Indian women and girls reinforced their isolation, confined them to domestic tasks and prevented them from obtaining a vocational qualification. Furthermore, indigenous women who did domestic work were paid either in kind or half as much as other women. It was also said that young Indian girls who had been recruited as maids were exploited and abused. She would like to have further information on the situation of indigenous people and of women in particular.

35. On the question of child labour, she would refer to the 1993 UNICEF report according to which children worked as house servants both in the country and in the towns. Moreover, the number of children working in the street in Asunción was on the increase. UNICEF also stressed that girls were exposed to violence and prostitution. Again, it would be useful to have further details.

36. The CHAIRPERSON, speaking as a member of the Committee, said that he would like to know what was the situation of the Guaranis and the place of the Guarani language. Under the Constitution Guarani too was an official language. Was it used in Parliament, in the press, on television and before the courts? Were laws translated into Guarani? Was Guarani losing ground to Spanish?

37. Mr. LOIZAGA (Paraguay) said that Guarani was not in decline, quite the contrary. For 30 or 40 years, and particularly during the past 10 years, it even seemed to be advancing. It was taught as a compulsory subject for the first three years of secondary education. The Constitution was translated into Guarani. Any party to or witness in a trial could express himself in Guarani during the hearing. The use of Guarani was very widespread at all levels.

38. As for privatization, in the event of the privatization of public enterprises that did not provide essential public services directly, the employees of such enterprises enjoyed priority in the purchase of shares. In general privatization remained a very sensitive issue in Paraguay. The important point was that, in the case of the privatization of companies that supplied essential public services such as water and telecommunications, the State could exercise control in the interests of the consumers, namely, its citizens.

39. With regard to indigenous people, it was true that some indigenous communities were in a difficult position, particularly those settled in the western region of the country, who were often outside the control of the administration. Cases of discrimination were in his view, an exception, which, it was none the less right to be concerned about just as the NGOs were. The situation of children, and in particular the dramatic problem of street children, represented a challenge which was faced by South America as a whole. His Government was endeavouring to find the most suitable ways of combating child labour and poverty.

40. The CHAIRPERSON invited the Paraguayan delegation and members of the Committee to turn to Section II, "Questions relating to the general provisions of the Covenant".

41. Mr. LOIZAGA (Paraguay) said that he would not be in a position to provide detailed information on the questions dealt with in Section II. Information supplementing his replies would be communicated later in writing by his Government, which would also forward to the Committee the decree establishing the National Council for Social Development.

42. Mr. AHMED, noting that Paraguay now welcomed foreign investors, and in particular Korean and Chinese businessmen and Brazilian stockbreeders, said that he would like to know what their legal position was. Apparently they were encouraged to invest in the country but they did not enjoy full access to the courts. What was the position exactly?

43. Mrs. BONOAN-DANDAN said she would like to know how the Committee would proceed if the Paraguayan delegation did not answer the questions to be taken up under Section II. What conclusions could it draw when it came to draft its concluding observations?

44. The CHAIRPERSON said that members of the Committee would be entirely free to say whether or not they were satisfied with the Paraguayan delegation's replies and explanations at the closed meeting to be held on the concluding observations concerning Paraguay.

45. Mrs. BONOAN-DANDAN said that the Paraguayan Government must provide further information on the situation of indigenous people and indigenous women in particular. In her view, the question could not be evaded simply by describing the cases of discrimination as exceptions. She would like to know as a matter of urgency what the Paraguayan Government was doing specifically to provide the indigenous communities and the women in those communities with adequate protection.

46. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) said that, with a view to a later reply from the Paraguayan Government, she would draw attention to the importance of article 3 of the Covenant. It would be interesting to know precisely what the status of women was in Paraguay.

47. Mr. LOIZAGA (Paraguay) said that foreigners were not guaranteed equality of rights under the Constitution but could play a part in the taking of decisions at the communal level. Paraguay received Italian and German, as well as Chinese and Korean, immigrants. Foreigners could assert their rights before the courts. Should their rights be infringed, their case would be considered by independent judges and without discrimination. It should be noted in that connection that, since 1994, the Paraguayan judicial system had been completely reformed.

48. The Secretaría nacional de la mujer (National Secretariat for Women) had been established in 1993 to promote the rights of women, and hence those of indigenous women. He did not have information on the specific cases referred to by the Committee, but assured it that the Government was doing everything possible to ensure the equality of all women.

49. Mr. AHMED said that he was not questioning Mr. Loizaga's sincerity, but a report of the United States State Department on Paraguay spoke of discrimination against Korean and Chinese citizens, particularly in the case of access to the housing market and private education. He would like to know whether such cases were the exception or whether they were a frequent occurrence.

50. Mr. LOIZAGA (Paraguay) said that the United States State Department often judged countries according to very different parameters. The Paraguayan army numbered colonels of Japanese origin among its ranks, and public and private colleges, in particular the American College in Asunción, took in Korean and Chinese children as well. The Paraguayan people had a favourable attitude towards Korean and Chinese citizens even though some of the immigrants were a poor reflection on their respective communities. In Paraguay, foreigners were welcome and they were not subjected to persecution.

51. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) expressed concern at the legal position of the indigenous peoples in Paraguay, several NGOs and the press having reported that some of them had been expelled from their lands and had been the victims of violence, particularly in the Tacuapú area. What steps was the Paraguayan Government taking to put an end to such incidents?

52. Mr. LOIZAGA (Paraguay) said that the Government played the role of mediator between landowners and communities and, more often than not, found a peaceful solution to their disputes. The largest indigenous reserve in Latin America was situated in Paraguay, at Mbaracayu. It covered an area of 50,000 hectares and four indigenous communities lived there. The Government had played a very important role in connection with it and had agreed with the financial body that held the mortgage over that private property that it could be turned into an ecological reserve and that the communities who inhabited it could be allowed to remain there. As in that case, the Government was doing

everything in its power to respect the traditions of the indigenous peoples and to allow them to live in their natural habitat, while at the same time affording them the possibility of adequate housing.

53. The CHAIRPERSON invited the Paraguayan delegation to turn to the questions contained in Section III of the list of issues (E/C.12/1995/LQ.1/Rev.1).

54. Mr. LOIZAGA (Paraguay) said that the Agrarian Reform Institute was responsible for the supervision of land tenure, land distribution and establishment of settlements. In addition, the National Development Bank was responsible for aid to projects in that field. Similarly, the Crédito Agrícola de Habilitación provided economic and technical support for the rural sector. A number of services in the Ministry of Agriculture and Stockbreeding also operated in that area. A national rural conference, to be attended by farmers' and government representatives, was shortly to be held with the aim of finding answers to the needs of rural areas.

55. The informal sector received technical assistance from the National Vocational Training Service. As for micro-enterprises such as street vendors, an NGO, Cooperación para el desarrollo, provided them with assistance, with government support. Lastly, the National Council for Economic and Social Development ran a programme in that area.

56. Mr. TEXIER said that, as was the case throughout Latin America, there was a significant proportion of informal employment in Paraguay. Informal employment was precarious and did not have the protection of social welfare. Did the Paraguayan Government take any measures in that regard? Furthermore, in regard to the table in paragraph 97 of the initial report which showed a 12 to 14-year age group among persons in employment, the fact that children 12 to 14 years of age worked conflicted with articles 6, 10 and 13 of the Covenant. And did those children attend school? What steps were taken to ensure that children did not have to have a job? The same table also referred to the 15 to 19-year age group: in his view, it was not desirable for 15-year-old children to work.

57. Mr. CEAUSU said that he would like to have further information concerning the statement in paragraph 87 of the initial report to the effect that, with the aim of raising the productivity and income of the rural population, an aggressive agrarian reform policy was being implemented. How many agricultural holdings were there in Paraguay and what area did they cover? What was the proportion of farm owners and farm workers to the economically active population? In countries moving towards a market economy, foreign investment was necessary to achieve that economy. What was the position in Paraguay in that regard? What effect did foreign investment have on employment? In his own country, foreign investors endeavoured to occupy a dominant position and to exercise an economic monopoly so as to influence prices.

58. Mrs. JIMENEZ BUTRAGUEÑO, commenting on agrarian reform, said she would like to know whether unproductive farms had been expropriated.

59. Mr. LOIZAGA (Paraguay) said that, owing to recent events in Paraguay, the government specialists who could have replied specifically to those questions had unfortunately not been able to come to Geneva. It was a matter of concern to the Government that many children worked. That was due to the country's fragile economic structures and to the high cost of servicing the foreign debt. None the less, in six years, the Government had managed by strenuous effort to improve public finances. Furthermore, the Instituto de Bienestar Rural (Rural Welfare Institute) was in the process of formalizing the system of land tenure: for properties of over five hectares, the owner must be in possession of a document of title in order to obtain a bank loan. The Institute was also responsible for entering such properties in a land register.

60. Paraguay was a country with a full market economy. It belonged to MERCOSUR, a common economic market composed of Brazil, Argentina, Uruguay and Paraguay, which benefited employment, particularly in the sector for the processing of various raw materials such as soya and cotton and in the livestock-breeding sector.

61. Mr. TEXIER said the Committee appreciated the difficult economic situation faced by Paraguay. None the less, regardless of such economic agreements as MERCOSUR and the cooperation agreements it had entered into, Paraguay must respect the "hard core" of economic, social and cultural rights, and in particular articles 10 and 13 of the Covenant concerning child labour and the compulsory nature of primary education. States parties to the Covenant must therefore take specific measures to that end.

62. Mr. LOIZAGA (Paraguay) stressed that, despite economic difficulties, the Government was taking action to combat child labour. Children had access to education and young persons who had to work to meet their needs could attend evening classes. Unlike in the developed countries, the Paraguayan State was not in a position to provide its citizens with social security benefits or to pay them unemployment benefits. The Government was doing everything in its power to alter that state of affairs.

The meeting rose at 1 p.m.